

REFERENCE TITLE: cigarette sales; licensing; luxury tax

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## HB 2818

Introduced by  
Representatives McComish, Reagan: Robson

### AN ACT

AMENDING SECTIONS 42-1124, 42-1125, 42-1127, 42-2003, 42-3001, 42-3004, 42-3006, 42-3007, 42-3010, 42-3053, 42-3151 AND 42-3201, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3201.01; AMENDING SECTION 42-3202, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-3202.01, 42-3202.02 AND 42-3202.03; AMENDING SECTIONS 42-3203 AND 42-3204, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3205; AMENDING SECTIONS 42-3206, 42-3207, 42-3209, 42-3210 AND 42-3211, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-3212; AMENDING SECTIONS 42-3221, 42-3222, 42-3226, 42-3303, 42-3304 AND 42-3305, ARIZONA REVISED STATUTES; RELATING TO SALES OF CIGARETTES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-1124, Arizona Revised Statutes, is amended to read:

42-1124. Failure to affix stamps or pay or account for tax; forfeiture of commodity; sale of forfeited commodity; effect of seizure and sale; request for administrative hearing; definitions

A. If the department or its authorized agents or representatives discover any luxury subject to tax under chapter 3 of this title to which official stamps have not been affixed as required or on which the tax has not been paid or accounted for, the department or its agent or representative may seize and take possession of the luxury, and it is deemed forfeited to this state. EXCEPT AS PROVIDED IN SUBSECTION D OR E OF THIS SECTION, the department shall within a reasonable time thereafter, pursuant to a notice posted on the premises or by publication in a newspaper of general circulation in the county where the sale is to take place, not fewer than five days before the date of sale, offer for sale and sell the forfeited luxuries. The department shall pay the proceeds of the sale into the state general fund. The sale shall take place in the county which is most convenient and economical. The department need not offer any property for sale if, in its opinion, the probable cost of sale exceeds the value of the property.

B. The seizure and sale do not relieve any person from the penalties provided for violating this title.

C. The department of revenue may enter into an interagency agreement with the department of transportation for the purpose of carrying out tobacco enforcement under chapter 3 of this title at ports of entry.

D. ALL CIGARETTES THAT ARE SEIZED FOR VIOLATIONS UNDER THIS TITLE SHALL BE FORFEITED TO THIS STATE. ALL CIGARETTES THAT ARE FORFEITED TO THIS STATE PURSUANT TO SECTION 42-3210 OR SECTION 44-7111, SECTION 6(b) SHALL BE DESTROYED. IF A CIGARETTE DISTRIBUTOR DEFRAUDS THIS STATE BY KNOWINGLY AND INTENTIONALLY FAILING TO KEEP OR MAKE ANY RECORD, RETURN, REPORT OR INVENTORY PERTAINING TO CIGARETTES, BY REFUSING TO PAY ANY LUXURY TAX FOR CIGARETTES SUBJECT TO TAX UNDER CHAPTER 3 OF THIS TITLE OR BY ATTEMPTING TO EVADE OR DEFEAT ANY REQUIREMENT OF THIS TITLE, THE CIGARETTE DISTRIBUTOR SHALL FORFEIT TO THIS STATE ALL FIXTURES, EQUIPMENT AND ALL OTHER MATERIALS AND PERSONAL PROPERTY THAT ARE LOCATED ON THE PREMISES OF THE CIGARETTE DISTRIBUTOR. ALTERNATIVELY, AT THE REQUEST OF THE DEPARTMENT, THE CIGARETTE DISTRIBUTOR MAY BE ENJOINED BY AN ACTION COMMENCED BY THE ATTORNEY GENERAL OR A COUNTY ATTORNEY IN THE NAME OF THE STATE FROM ENGAGING OR CONTINUING IN ANY BUSINESS FOR WHICH A TAX IS IMPOSED BY THIS CHAPTER UNTIL THE TAX HAS BEEN PAID AND UNTIL SUCH PERSON HAS COMPLIED WITH THIS TITLE.

E. THE DEPARTMENT MAY SELL OR OTHERWISE DISPOSE OF ANY CIGARETTES FORFEITED TO THIS STATE ON SUCH CONDITIONS AS IT DEEMS MOST ADVANTAGEOUS AND JUST UNDER THE CIRCUMSTANCES, UNLESS SUCH CIGARETTES ARE FORFEITED PURSUANT

1 TO SECTION 42-3210 OR SECTION 44-7111, SECTION 6(b). THE DEPARTMENT SHALL  
2 DEPOSIT THE PROCEEDS OF ANY SALES MADE PURSUANT TO THIS SUBSECTION IN THE  
3 STATE GENERAL FUND.

4 F. THE DEPARTMENT SHALL GIVE NOTICE OF THE SEIZURE AND FORFEITURE OF  
5 CIGARETTES DESCRIBED IN THIS SECTION BY PERSONAL SERVICE OR BY CERTIFIED MAIL  
6 TO ALL PERSONS KNOWN BY THE DEPARTMENT TO HAVE ANY RIGHT, TITLE OR INTEREST  
7 IN THE PROPERTY. NOTICE SHALL INCLUDE A DESCRIPTION OF THE CIGARETTES  
8 SEIZED, THE REASON FOR THE SEIZURE AND THE TIME AND PLACE OF THE SEIZURE.  
9 THE FOLLOWING APPLIES TO THE NOTICE UNDER THIS SUBSECTION:

10 1. EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION, THE  
11 DEPARTMENT SHALL POST AND MAINTAIN AN ON-LINE NOTICE OF SEIZURE AND  
12 FORFEITURE ON ITS WEB SITE FOR A PERIOD OF AT LEAST SIX MONTHS, BEGINNING NO  
13 LATER THAN TEN BUSINESS DAYS AFTER THE DATE OF THE PERSONAL SERVICE OF THE  
14 NOTICE TO A PERSON OR THE DATE OF THE MAILING OF THE NOTICE. THE ON-LINE  
15 NOTICE SHALL DISPLAY THE DATE ON WHICH THE DEPARTMENT POSTS THE NOTICE TO THE  
16 WEB SITE, WHICH SHALL SERVE AS THE DATE OF PUBLICATION OF THE NOTICE.

17 2. AN ON-LINE NOTICE IS NOT REQUIRED IF THE AMOUNT OF CIGARETTES  
18 SEIZED IS LESS THAN SIXTY-ONE CARTONS OF TWO HUNDRED CIGARETTES EACH.

19 G. ANY PERSON WHOSE LEGAL RIGHTS, DUTIES OR PRIVILEGES ARE DETERMINED  
20 BY THE NOTICE OF SEIZURE AND FORFEITURE MAY FILE A REQUEST FOR AN  
21 ADMINISTRATIVE HEARING WITH THE DEPARTMENT ON A FORM PRESCRIBED BY THE  
22 DEPARTMENT. THE REQUEST FOR AN ADMINISTRATIVE HEARING SHALL CONTAIN A  
23 STATEMENT OF THE PETITIONER'S INTEREST IN THE CIGARETTES AND AN EXPLANATION  
24 OF WHY THE RELEASE OR RECOVERY OF THE CIGARETTES IS WARRANTED ON THE GROUND  
25 THAT THE CIGARETTES WERE ERRONEOUSLY OR ILLEGALLY SEIZED.

26 H. THE SEIZURE AND FORFEITURE OF CIGARETTES BY THE DEPARTMENT IS AN  
27 APPEALABLE AGENCY ACTION AS DEFINED IN SECTION 41-1092 AND IS GOVERNED BY  
28 TITLE 41, CHAPTER 6, ARTICLE 10 AND SECTION 42-1251, EXCEPT THAT:

29 1. A REQUEST FOR AN ADMINISTRATIVE HEARING THAT IS FILED UNDER  
30 SUBSECTION G OF THIS SECTION IS DEEMED TO BE TIMELY FILED IF THE REQUEST IS  
31 FILED WITH THE DEPARTMENT WITHIN TEN DAYS AFTER THE DATE OF PERSONAL SERVICE  
32 ON THE PETITIONER OR THE DATE OF MAILING THE NOTICE TO THE PETITIONER. ANY  
33 PERSON NOT SERVED PERSONALLY OR BY MAIL SHALL FILE THE REQUEST WITHIN TEN  
34 DAYS AFTER THE DATE OF PUBLICATION OF THE NOTICE. THE FAILURE OF A PERSON TO  
35 FILE A TIMELY REQUEST CONSTITUTES A BAR TO THAT PERSON'S RIGHT TO ANY  
36 INTEREST IN THE CIGARETTES, EXCEPT INsofar AS THE RIGHTS OF THAT PERSON MAY  
37 BE ESTABLISHED IN AN ACTION FILED BY THE DEPARTMENT UNDER THIS CHAPTER.

38 2. IF A REQUEST FOR AN ADMINISTRATIVE HEARING IS NOT FILED WITH THE  
39 DEPARTMENT AT THE EXPIRATION OF TEN DAYS AFTER THE NOTICE HAS BEEN PERSONALLY  
40 SERVED, MAILED OR PUBLISHED, THE DEPARTMENT'S DETERMINATION IS FINAL. IF A  
41 TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING HAS BEEN FILED WITH THE  
42 DEPARTMENT, THE DEPARTMENT SHALL REQUEST A HEARING BY THE OFFICE OF  
43 ADMINISTRATIVE HEARINGS AND THE DEPARTMENT SHALL SUSPEND ACTION UNTIL THE  
44 FINAL ORDER OF THE DEPARTMENT HAS BEEN ISSUED. AN ORDER THAT IS ISSUED BY  
45 THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL BE THE FINAL ORDER OF THE

1 DEPARTMENT THIRTY DAYS AFTER THE PETITIONER RECEIVES THE DECISION UNLESS A  
2 DECISION BY THE DIRECTOR IS ISSUED PURSUANT TO SECTION 42-1251. IF THE  
3 DIRECTOR ISSUES A DECISION, THAT DECISION IS THE FINAL ORDER OF THE  
4 DEPARTMENT.

5 I. FOR THE PURPOSES OF THIS SECTION, "CIGARETTE" AND "CIGARETTE  
6 DISTRIBUTOR" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 42-3001.

7 Sec. 2. Section 42-1125, Arizona Revised Statutes, is amended to read:

8 42-1125. Civil penalties; definition

9 A. If a taxpayer fails to make and file a return for a tax  
10 administered pursuant to this article on or before the due date of the return  
11 or the due date as extended by the department, then, unless it is shown that  
12 the failure is due to reasonable cause and not due to wilful neglect, four  
13 and one-half per cent of the tax required to be shown on such return shall be  
14 added to the tax for each month or fraction of a month elapsing between the  
15 due date of the return and the date on which it is filed. The total penalty  
16 shall not exceed twenty-five per cent of the tax found to be remaining due.  
17 The penalty so added to the tax is due and payable on notice and demand from  
18 the department. For the purpose of computing the penalty imposed under this  
19 subsection, the amount required to be shown as tax on a return shall be  
20 reduced by the amount of any part of the tax which is paid on or before the  
21 beginning of such month and by the amount of any credit against the tax which  
22 may be claimed on the return. If the amount required to be shown as tax on a  
23 return is less than the amount shown as tax on such return the penalty  
24 described in this subsection shall be applied by substituting such lower  
25 amount.

26 B. If a taxpayer fails or refuses to file a return on notice and  
27 demand by the department, the taxpayer shall pay a penalty of twenty-five per  
28 cent of the tax, which is due and payable on notice and demand by the  
29 department, in addition to any penalty prescribed by subsection A of this  
30 section, unless it is shown that the failure is due to reasonable cause and  
31 not due to wilful neglect. This penalty is payable on notice and demand from  
32 the department.

33 C. If a taxpayer fails or refuses to furnish any information requested  
34 in writing by the department, the department may add a penalty of twenty-five  
35 per cent of the amount of any deficiency tax assessed by the department  
36 concerning the assessment of which the information was required, unless it is  
37 shown that the failure is due to reasonable cause and not due to wilful  
38 neglect.

39 D. If a person fails to pay the amount shown as tax on any return  
40 within the time prescribed, a penalty of one-half of one per cent, not to  
41 exceed a total of ten per cent, shall be added to the amount shown as tax for  
42 each month or fraction of a month during which the failure continues, unless  
43 it is shown that the failure is due to reasonable cause and not due to wilful  
44 neglect. If the department determines that the person's failure to pay was  
45 due to reasonable cause and not due to wilful neglect and that a payment

1 agreement pursuant to section 42-2057 is appropriate, the department shall  
2 not impose the penalty unless the taxpayer fails to comply with the payment  
3 agreement. If the taxpayer is also subject to a penalty under subsection A  
4 of this section for the same tax period, the total penalties under subsection  
5 A of this section and this subsection shall not exceed twenty-five per cent.  
6 For the purpose of computing the penalty imposed under this subsection:

7 1. The amount shown as tax on a return shall be reduced by the amount  
8 of any part of the tax that is paid on or before the beginning of that month  
9 and by the amount of any credit against the tax that may be claimed on the  
10 return.

11 2. If the amount shown as tax on a return is greater than the amount  
12 required to be shown as tax on that return, the penalty shall be applied by  
13 substituting the lower amount.

14 E. If a person fails to pay any amount required to be shown on any  
15 return that is not so shown within twenty-one calendar days after the date of  
16 notice and demand, a penalty of one-half of one per cent, not to exceed a  
17 total of ten per cent, shall be added to the amount of tax for each month or  
18 fraction of a month during which the failure continues, unless it is shown  
19 that the failure is due to reasonable cause and not due to wilful neglect.  
20 If the taxpayer is also subject to penalty under subsection A of this section  
21 for the same tax period, the total penalties under subsection A of this  
22 section and this subsection shall not exceed twenty-five per cent. For the  
23 purpose of computing the penalty imposed under this subsection, any amount  
24 required to be shown on any return shall be reduced by the amount of any part  
25 of the tax that is paid on or before the beginning of that month and by the  
26 amount of any credit against the tax that may be claimed on the return.

27 F. In the case of a deficiency, for which a determination is made of  
28 an additional amount due, which is due to negligence but without intent to  
29 defraud, the person shall pay a penalty of ten per cent of the amount of the  
30 deficiency.

31 G. If part of a deficiency is due to fraud with intent to evade tax,  
32 fifty per cent of the total amount of the tax, in addition to the deficiency,  
33 interest and other penalties provided in this section, shall be assessed,  
34 collected and paid as if it were a deficiency.

35 H. If the amount, whether determined by the department or the  
36 taxpayer, required to be withheld by the employer pursuant to title 43,  
37 chapter 4 is not paid to the department on or before the date prescribed for  
38 its remittance, the department may add a penalty of twenty-five per cent of  
39 the amount required to be withheld and paid, unless it is shown that the  
40 failure is due to reasonable cause and not due to wilful neglect.

41 I. A person who, with or without intent to evade any requirement of  
42 this article or any lawful administrative rule of the department of revenue  
43 under this article, fails to file a return or to supply information required  
44 under this article or who, with or without such intent, makes, prepares,  
45 renders, signs or verifies a false or fraudulent return or statement or

1 supplies false or fraudulent information shall pay a penalty of not more than  
2 one thousand dollars. This penalty shall be recovered by the department of  
3 law in the name of this state by an action in any court of competent  
4 jurisdiction.

5 J. If the taxpayer files what purports to be a return of any tax  
6 administered pursuant to this article but which is frivolous or which is made  
7 with the intent to delay or impede the administration of the tax laws, that  
8 person shall pay a penalty of five hundred dollars.

9 K. If a taxpayer who is required to file or provide an information  
10 return under this title or title 43 fails to file the return at the  
11 prescribed time or files a return which fails to show the information  
12 required, that taxpayer shall pay a penalty of five hundred dollars unless it  
13 is shown that the failure is due to reasonable cause and not due to wilful  
14 neglect.

15 L. If it appears to the superior court that proceedings before it have  
16 been instituted or maintained by a taxpayer primarily for delay or that the  
17 taxpayer's position is frivolous or groundless, the court may award damages  
18 in an amount not to exceed one thousand dollars to this state. Damages so  
19 awarded shall be collected as a part of the tax.

20 M. A person who is required under section 43-413 to furnish a  
21 statement to an employee and who wilfully furnishes a false or fraudulent  
22 statement, or who wilfully fails to furnish a statement required by section  
23 43-413, is for each such failure subject to a penalty of fifty dollars.

24 N. A person who is required to collect, ~~OR~~ truthfully account for and  
25 pay a tax administered pursuant to this article, **INCLUDING ANY LUXURY**  
26 **PRIVILEGE TAX**, and who wilfully fails to collect the tax or truthfully  
27 account for and pay the tax, or wilfully attempts in any manner to evade or  
28 defeat the tax or its payment, is, in addition to other penalties provided by  
29 law, liable for a penalty equal to the total amount of the tax evaded, not  
30 collected or not accounted for and paid. **EXCEPT AS PROVIDED IN SUBSECTIONS**  
31 **S, T AND U OF THIS SECTION**, no other penalty under this section relating to  
32 failure to pay tax may be imposed for any offense to which this subsection  
33 applies.

34 O. Unless due to reasonable cause and not to wilful neglect:

35 1. A person who fails to provide his taxpayer identification number in  
36 any return, statement or other document as required by section 42-1105,  
37 subsection A shall pay a penalty of five dollars for each such failure.

38 2. A person, when filing any return, statement or other document for  
39 compensation on behalf of a taxpayer, who fails to include that person's own  
40 taxpayer identification number and the taxpayer's identification number shall  
41 pay a penalty of fifty dollars for each such failure.

42 3. A person, when filing any return, statement or other document  
43 without compensation on behalf of a taxpayer, who fails to include that  
44 person's own taxpayer identification number and the taxpayer's identification  
45 number is not subject to a penalty.

1 No other penalty under this section may be imposed if the only violation is  
2 failure to provide taxpayer identification numbers.

3 P. If a taxpayer fails to pay the full amount of estimated tax  
4 required by title 43, chapter 5, article 6, a penalty is assessed equal to  
5 the amount of interest that would otherwise accrue under section 42-1123 on  
6 the amount not paid for the period of nonpayment, not exceeding ten per cent  
7 of the amount not paid. The penalty prescribed by this subsection is in lieu  
8 of any other penalty otherwise prescribed by this section and in lieu of  
9 interest prescribed by section 42-1123.

10 Q. The department of law ~~may~~, with the consent of the department of  
11 revenue, ~~MAY~~ compromise any penalty for which it may bring an action under  
12 this section.

13 R. Penalties shall not be assessed under subsection D of this section  
14 on additional amounts of tax paid by a taxpayer at the time the taxpayer  
15 voluntarily files an amended return. This subsection does not apply if:

16 1. The taxpayer is under audit by the department.  
17 2. The amended return was filed on demand or request by the  
18 department.

19 3. The total additional tax paid and due for the tax period represents  
20 a substantial understatement of tax liability. For the purposes of this  
21 paragraph, there is a substantial understatement of tax for any tax period if  
22 the amount of the understatement for the tax period exceeds the greater of  
23 ten per cent of the actual tax liability for the tax period or two thousand  
24 dollars.

25 S. IN ADDITION TO OTHER PENALTIES PROVIDED BY LAW, A PERSON WHO FAILS  
26 TO COMPLY WITH ANY REQUIREMENT UNDER CHAPTER 3, ARTICLE 5 OF THIS TITLE  
27 RELATING TO CIGARETTES SHALL PAY A PENALTY OF ONE THOUSAND DOLLARS OR FIVE  
28 TIMES THE RETAIL VALUE OF THE CIGARETTES INVOLVED, WHICHEVER IS GREATER. A  
29 PERSON WHO FAILS TO PAY ANY LUXURY TAX THAT RELATES TO CIGARETTES IMPOSED BY  
30 CHAPTER 3 OF THIS TITLE SHALL PAY A PENALTY THAT IS EQUAL TO FIVE TIMES THE  
31 AMOUNT OF THE UNPAID TAX.

32 T. A CIGARETTE MANUFACTURER, CIGARETTE IMPORTER OR CIGARETTE  
33 DISTRIBUTOR, AS DEFINED IN SECTION 42-3001, WHO SELLS OR POSSESSES CIGARETTES  
34 WITH FALSE MANUFACTURING LABELS OR CIGARETTES WITH COUNTERFEIT TAX STAMPS  
35 SHALL PAY THE FOLLOWING PENALTIES:

36 1. FOR A FIRST VIOLATION INVOLVING ONE CARTON OF CIGARETTES, ONE  
37 THOUSAND DOLLARS.

38 2. FOR A SUBSEQUENT VIOLATION INVOLVING ONE CARTON OF CIGARETTES, FIVE  
39 THOUSAND DOLLARS.

40 3. FOR A FIRST VIOLATION INVOLVING TWO OR MORE CARTONS OF CIGARETTES,  
41 TWO THOUSAND DOLLARS OR FIVE TIMES THE RETAIL VALUE OF THE CIGARETTES,  
42 WHICHEVER IS GREATER.

43 4. FOR A SUBSEQUENT VIOLATION INVOLVING TWO OR MORE CARTONS OF  
44 CIGARETTES, FIFTY THOUSAND DOLLARS OR FIVE TIMES THE RETAIL VALUE OF THE  
45 CIGARETTES, WHICHEVER IS GREATER.

1 U. THE CIVIL PENALTIES IN THIS SECTION ARE IN ADDITION TO ANY CIVIL  
2 PENALTY UNDER CHAPTER 3, ARTICLE 5 OF THIS TITLE.

3 ~~S.~~ V. For the purposes of this section, and only as applied to the  
4 taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles 1, 2  
5 and 3 of this title, "reasonable cause" means a reasonable basis for the  
6 taxpayer to believe that the tax did not apply to the business activity or  
7 the storage, use or consumption of the taxpayer's tangible personal property  
8 in this state.

9 Sec. 3. Section 42-1127, Arizona Revised Statutes, is amended to read:

10 42-1127. Criminal violations; classifications; place of trial;  
11 definition

12 A. It is a class 4 felony to:

13 1. Corruptly or by force or threats of force or injury:

14 (a) Attempt to intimidate, impede or injure an employee of the  
15 department acting in an official capacity.

16 (b) Obstruct, impede or attempt to obstruct or impede the  
17 administration of this title or title 43.

18 2. Attempt by means of bribery, misrepresentation, intimidation or  
19 force or threats of force to obstruct, delay or prevent the communication of  
20 information or testimony relating to a violation of this title or title 43 to  
21 an employee or officer of the department, or knowingly injure another  
22 personally or injure the person's property on account of the person giving,  
23 personally or by any other person, any such information or testimony to an  
24 employee of the department.

25 3. Make, forge, alter or counterfeit with the intent to defraud a  
26 stamp or meter impression prepared or prescribed by the department under  
27 chapter 3 of this title, or to knowingly utter, publish, pass or tender as  
28 true a false, altered, forged or counterfeited stamp or meter impression, or  
29 to use a stamp provided for and required by chapter 3 of this title which has  
30 already once been used, with the intent to evade the tax imposed by chapter 3  
31 of this title.

32 4. Tamper with, or cause to be tampered with, any metering machine  
33 authorized to be used under chapter 3 of this title.

34 B. It is a class 5 felony to:

35 1. Knowingly fail to pay any tax administered pursuant to this article  
36 due or believed due by the taxpayer with intent to evade the tax.

37 2. Knowingly prepare, present or aid, procure or advise in preparing  
38 or presenting any return, affidavit, claim or other document which is  
39 fraudulent or is false as to any material matter, whether or not the falsity  
40 or fraud is with the knowledge or consent of the taxpayer authorized or  
41 required to present the return, affidavit, claim or document.

42 3. Simulate or falsely or fraudulently execute or sign any license or  
43 other required document, or cause the license or document to be falsely or  
44 fraudulently executed or advise or aid in such execution, with the intent to



1 conceal or cover up a material fact relating to a tax administered pursuant  
2 to this article.

3 4. Knowingly fail to file a return or supply required information, or  
4 falsify or conceal a material fact, document or record, make a false,  
5 fictitious or fraudulent statement or representation or make or use a false  
6 writing or document knowing it to contain a false, fictitious or fraudulent  
7 statement or entry, with intent that the department rely on the false,  
8 fictitious or fraudulent statement or entry in determining tax liability  
9 under this article.

10 C. A CIGARETTE distributor as defined in section 42-3001 who~~+~~  
11 ~~1.~~ violates section 42-3202, paragraph 2 or section 42-3204 is guilty  
12 of a class 1 misdemeanor. If the CIGARETTE distributor is convicted of a  
13 second violation of section 42-3202, paragraph 2 or section 42-3204, the  
14 department shall revoke the CIGARETTE distributor's license issued pursuant  
15 to section 42-3201.

16 ~~2.~~ D. A DISTRIBUTOR AS DEFINED IN SECTION 42-3001 WHO violates any  
17 provision of section 42-3201, section 42-3202, paragraph 1 or section 42-3203  
18 is guilty of a class 1 misdemeanor. If the distributor is A LICENSEE UNDER  
19 SECTION 42-3201 AND IS convicted of a second violation of section 42-3203,  
20 the department may revoke the distributor's license.

21 ~~D.~~ E. It is a class ~~5-~~ 3 felony FOR ANY PERSON TO:

22 1. ~~For an unlicensed distributor, as defined in section 42-3001, to:~~  
23 ~~(a)~~ EXCEPT AS PROVIDED IN SECTION 42-3205, transport, in an unstamped  
24 or unlawfully stamped condition, for the purpose of sale ten thousand or more  
25 cigarettes that were subject to the tax imposed by chapter 3, article 2, 6 or  
26 7 of this title.

27 ~~(b)~~ 2. Wilfully sell or offer for sale, in an unstamped or unlawfully  
28 stamped condition, ten thousand or more cigarettes that were subject to the  
29 tax imposed by chapter 3, article 2, 6 or 7 of this title.

30 ~~2.~~ 3. ~~For any person to~~ Wilfully sell or offer for sale off an Indian  
31 reservation ten thousand or more cigarettes that are stamped for  
32 on-reservation sales.

33 ~~E.~~ F. For the purposes of subsection ~~D-~~ E of this section, the  
34 possession or transportation in this state at any time by any person, ~~other~~  
35 ~~than a licensed distributor, as defined in section 42-3001,~~ of ten thousand  
36 or more cigarettes in an unstamped or unlawfully stamped condition is  
37 presumptive evidence that the cigarettes:

38 1. Are possessed or transported for the purpose of sale.

39 2. Are subject to the taxes imposed by chapter 3, article 2, 6 or 7 of  
40 this title.

41 ~~F.~~ G. A person who knowingly sells a luxury OTHER THAN CIGARETTES on  
42 which the tax has not been paid or accounted for as required by chapter 3 of  
43 this title is guilty of a class 1 misdemeanor.

~~G.~~ H. A retailer who possesses any package, bottle or other container containing a luxury which does not bear the stamps required to be affixed by chapter 3 of this title is guilty of a class 1 misdemeanor.

~~H.~~ I. A person is guilty of a class 3 misdemeanor who:

1. Is engaged in the business of selling a luxury, either at wholesale or retail, and who knowingly refuses or fails to produce on demand by the department invoices of all luxuries the person purchased or received within two years immediately before the demand, unless the person shows by satisfactory proof that the person is unable to do so for reasons beyond the person's control.

2. Makes a false entry on an invoice, package or container of luxuries, or who with intent to avoid the taxes imposed by chapter 3 of this title presents a false entry for inspection of the department.

3. Knowingly prevents or hinders the department from making a full inspection of any place where a luxury is sold or stored, or knowingly prevents or hinders the inspection of invoices, books, records or papers required to be kept.

4. Violates any provision of this article or an administrative rule adopted by the department for which no other penalty is prescribed.

~~I.~~ J. The place of trial for the offenses enumerated in this section is in the county of residence or principal place of business of the defendant or defendants. If the defendant has no residence or principal place of business in this state, the trial shall be held in Maricopa county.

K. A PERSON WHO DEFRAUDS THIS STATE BY INTENTIONALLY VIOLATING ANY REQUIREMENT UNDER CHAPTER 3 OF THIS TITLE IS GUILTY OF A CLASS 4 FELONY.

L. A PERSON WHO KNOWINGLY VIOLATES ANY REQUIREMENT UNDER CHAPTER 3 OF THIS TITLE IS GUILTY OF A CLASS 6 FELONY.

M. A PERSON WHO KNOWINGLY SELLS OR OFFERS TO SELL OFF AN INDIAN RESERVATION LESS THAN TEN THOUSAND CIGARETTES THAT ARE STAMPED FOR ON-RESERVATION SALES IS GUILTY OF A CLASS 5 FELONY.

N. A CIGARETTE MANUFACTURER, CIGARETTE IMPORTER OR CIGARETTE DISTRIBUTOR, AS DEFINED IN SECTION 42-3001, WHO SELLS OR POSSESSES CIGARETTES WITH FALSE MANUFACTURING LABELS OR CIGARETTES WITH COUNTERFEIT TAX STAMPS IS GUILTY OF A CLASS 5 FELONY.

~~J.~~ O. ~~IN~~ FOR THE PURPOSES OF this section, "luxury" means any article, object or device on which a tax is imposed under chapter 3 of this title.

Sec. 4. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.

1           2. A corporate taxpayer may be disclosed to any principal officer, any  
2 person designated by a principal officer or any person designated in a  
3 resolution by the corporate board of directors or other similar governing  
4 body.

5           3. A partnership may be disclosed to any partner of the partnership.  
6 This exception does not include disclosure of confidential information of a  
7 particular partner unless otherwise authorized.

8           4. An estate may be disclosed to the personal representative of the  
9 estate and to any heir, next of kin or beneficiary under the will of the  
10 decedent if the department finds that the heir, next of kin or beneficiary  
11 has a material interest which will be affected by the confidential  
12 information.

13           5. A trust may be disclosed to the trustee or trustees, jointly or  
14 separately, and to the grantor or any beneficiary of the trust if the  
15 department finds that the grantor or beneficiary has a material interest  
16 which will be affected by the confidential information.

17           6. Any taxpayer may be disclosed if the taxpayer has waived any rights  
18 to confidentiality either in writing or on the record in any administrative  
19 or judicial proceeding.

20           7. The name and taxpayer identification numbers of persons issued  
21 direct payment permits may be publicly disclosed.

22           B. Confidential information may be disclosed to:

23           1. Any employee of the department whose official duties involve tax  
24 administration.

25           2. The office of the attorney general solely for its use in  
26 preparation for, or in an investigation which may result in, any proceeding  
27 involving tax administration before the department or any other agency or  
28 board of this state, or before any grand jury or any state or federal court.

29           3. The department of liquor licenses and control for its use in  
30 determining whether a spirituous liquor licensee has paid all transaction  
31 privilege taxes and affiliated excise taxes incurred as a result of the sale  
32 of spirituous liquor at the licensed establishment and imposed on the  
33 licensed establishments by this state and its political subdivisions.

34           4. Other state tax officials whose official duties require the  
35 disclosure for proper tax administration purposes if the information is  
36 sought in connection with an investigation or any other proceeding conducted  
37 by the official. Any disclosure is limited to information of a taxpayer who  
38 is being investigated or who is a party to a proceeding conducted by the  
39 official.

40           5. The following agencies, officials and organizations, if they grant  
41 substantially similar privileges to the department for the type of  
42 information being sought, pursuant to statute and a written agreement between  
43 the department and the foreign country, agency, state, Indian tribe or  
44 organization:

1 (a) The United States internal revenue service, alcohol and tobacco  
2 tax and trade bureau of the United States treasury, United States bureau of  
3 alcohol, tobacco, firearms and explosives of the United States department of  
4 justice, United States drug enforcement agency and federal bureau of  
5 investigation.

6 (b) A state tax official of another state.

7 (c) An organization of states that operates an information exchange  
8 for tax administration purposes.

9 (d) An agency, official or organization of a foreign country with  
10 responsibilities that are comparable to those listed in subdivision (a), (b)  
11 or (c) of this paragraph.

12 (e) An agency, official or organization of an Indian tribal government  
13 with responsibilities comparable to the responsibilities of the agencies,  
14 officials or organizations identified in subdivision (a), (b) or (c) of this  
15 paragraph.

16 6. The auditor general, in connection with any audit of the department  
17 subject to the restrictions in section 42-2002, subsection C.

18 7. Any person to the extent necessary for effective tax administration  
19 in connection with:

20 (a) The processing, storage, transmission, destruction and  
21 reproduction of the information.

22 (b) The programming, maintenance, repair, testing and procurement of  
23 equipment for purposes of tax administration.

24 8. The office of administrative hearings relating to taxes  
25 administered by the department pursuant to section 42-1101, but the  
26 department shall not disclose any confidential information:

27 (a) Regarding income tax, withholding tax or estate tax.

28 (b) On any tax issue relating to information associated with the  
29 reporting of income tax, withholding tax or estate tax.

30 9. The United States treasury inspector general for tax administration  
31 for the purpose of reporting a violation of internal revenue code section  
32 7213A (26 United States Code section 7213A), unauthorized inspection of  
33 returns or return information.

34 10. The financial management service of the United States treasury  
35 department for use in the treasury offset program.

36 11. The department of commerce for its use in both:

37 (a) Qualifying motion picture production companies for the tax  
38 incentives provided for motion picture production under chapter 5 of this  
39 title and sections 43-1075 and 43-1163.

40 (b) Fulfilling its annual reporting responsibility pursuant to section  
41 41-1517, subsection ~~J~~ K.

42 C. Confidential information may be disclosed in any state or federal  
43 judicial or administrative proceeding pertaining to tax administration if the  
44 taxpayer is a party to the proceeding.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, upon the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, ~~or~~ verify whether or not a person has a privilege license and number or withholding license and number **OR DISCLOSE TO THE EXTENT NECESSARY FOR EFFECTIVE TAX ADMINISTRATION IN CONNECTION WITH THE CONFIRMATION AND VERIFICATION OF CIGARETTE DISTRIBUTOR LICENSES THAT ARE ISSUED UNDER SECTION 42-3201 OR ON-LINE NOTICE OF SEIZURE AND FORFEITURE UNDER SECTION 42-1124.**

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information which is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the organization and the application filed by the organization upon which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and rental occupancy tax may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by the county, city or town. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. In order to comply with the requirements of section 42-5029, subsection A, paragraph 3, the department may disclose to the state treasurer statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer.

J. The department may disclose the aggregate amounts of any tax credit, tax deduction or tax exemption enacted after January 1, 1994. Information subject to disclosure under this subsection shall not be disclosed if a taxpayer demonstrates to the department that such information would give an unfair advantage to competitors.

K. Except as provided in section 42-2002, subsection B, confidential information, described in section 42-2001, paragraph 2, subdivision (a), item (iii), may be disclosed to law enforcement agencies for law enforcement purposes.

L. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

M. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

N. Except as provided in section 42-2002, subsection C, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only upon a showing of good cause and that the party seeking the information has made demand upon the taxpayer for the information.

O. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information the department shall obtain the name and address of the person requesting the information.

P. If the department is required or permitted to disclose confidential information, it may charge the person or agency requesting the information for the reasonable cost of its services.

Q. Except as provided in section 42-2002, subsection C, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(1)(6) of the internal revenue code.

R. Except as provided in section 42-2002, subsection C, the department of revenue shall release confidential information as requested by the courts and clerks of the court pursuant to section 42-1122.

S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

T. The department shall release confidential information as requested by the attorney general for purposes of determining compliance with and enforcing section 44-7101, the master settlement agreement referred to therein and subsequent agreements to which the state is a party that amend or

1 implement the master settlement agreement. Information disclosed under this  
 2 subsection is limited to luxury tax information relating to tobacco  
 3 manufacturers, distributors, wholesalers and retailers and information  
 4 collected by the department pursuant to section 44-7101(2)(j).

5 U. For proceedings before the department, the office of administrative  
 6 hearings, the board of tax appeals or any state or federal court involving  
 7 penalties that were assessed against a return preparer or electronic return  
 8 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential  
 9 information may be disclosed only before the judge or administrative law  
 10 judge adjudicating the proceeding, the parties to the proceeding and the  
 11 parties' representatives in the proceeding prior to its introduction into  
 12 evidence in the proceeding. The confidential information may be introduced  
 13 as evidence in the proceeding only if the taxpayer's name, the names of any  
 14 dependents listed on the return, all social security numbers, the taxpayer's  
 15 address, the taxpayer's signature and any attachments containing any of the  
 16 foregoing information are redacted and if either:

17 1. The treatment of an item reflected on such return is or may be  
 18 related to the resolution of an issue in the proceeding.

19 2. Such return or return information relates or may relate to a  
 20 transactional relationship between a person who is a party to the proceeding  
 21 and the taxpayer which directly affects the resolution of an issue in the  
 22 proceeding.

23 V. The department may disclose to the attorney general confidential  
 24 information received under section 44-7111 and requested by the attorney  
 25 general for purposes of determining compliance with and enforcing section  
 26 44-7111. The department and attorney general shall share with each other the  
 27 information received under section 44-7111, and may share the information  
 28 with other federal, state or local agencies only for the purposes of  
 29 enforcement of section 44-7101, section 44-7111 or corresponding laws of  
 30 other states.

31 Sec. 5. Section 42-3001, Arizona Revised Statutes, is amended to read:

32 42-3001. Definitions

33 In this chapter, unless the context otherwise requires:

34 1. "Affix" and "affixed" includes imprinting tax meter stamps on  
 35 packages and individual containers as authorized by the department.

36 2. "Cider" means vinous liquor that is made from the normal alcoholic  
 37 fermentation of the juice of sound, ripe apples, including flavored,  
 38 sparkling and carbonated cider and cider made from condensed apple must, and  
 39 that contains more than one-half of one per cent of alcohol by volume but not  
 40 more than seven per cent of alcohol by volume.

41 3. "Cigar" means any roll of tobacco or any substitute for tobacco  
 42 wrapped ~~with tobacco~~ IN LEAF TOBACCO OR IN ANY SUBSTANCE CONTAINING TOBACCO  
 43 OTHER THAN ANY ROLL OF TOBACCO OR ANY SUBSTITUTE FOR TOBACCO THAT IS A  
 44 CIGARETTE.

45 4. "Cigarette" means EITHER OF THE FOLLOWING:

1 (a) Any roll of tobacco or any substitute for tobacco wrapped in paper  
2 or any substance ~~other than~~ NOT CONTAINING tobacco.

3 (b) ANY ROLL OF TOBACCO WRAPPED IN ANY SUBSTANCE CONTAINING TOBACCO  
4 THAT, BECAUSE OF ITS APPEARANCE, THE TYPE OF TOBACCO USED IN THE FILLER OR  
5 ITS PACKAGING AND LABELING, IS LIKELY TO BE OFFERED TO OR PURCHASED BY A  
6 CONSUMER AS A CIGARETTE DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH.

7 5. "CIGARETTE DISTRIBUTOR" MEANS A DISTRIBUTOR OF CIGARETTES WITHOUT  
8 STAMPS AFFIXED AS REQUIRED BY THIS ARTICLE WHO IS REQUIRED TO BE LICENSED  
9 UNDER SECTION 42-3201. CIGARETTE DISTRIBUTOR DOES NOT INCLUDE A RETAILER OR  
10 ANY PERSON WHO HOLDS A PERMIT AS A CIGARETTE MANUFACTURER, EXPORT WAREHOUSE  
11 PROPRIETOR OR IMPORTER UNDER 26 UNITED STATES CODE SECTION 5712 IF THE PERSON  
12 SELLS OR DISTRIBUTES CIGARETTES IN THIS STATE ONLY TO LICENSED CIGARETTE  
13 DISTRIBUTORS OR TO ANOTHER PERSON WHO HOLDS A PERMIT UNDER 26 UNITED STATES  
14 CODE SECTION 5712 AS AN EXPORT WAREHOUSE PROPRIETOR OR MANUFACTURER.

15 6. "CIGARETTE IMPORTER" MEANS ANY PERSON WHO DIRECTLY OR INDIRECTLY  
16 IMPORTS INTO THE UNITED STATES A FINISHED CIGARETTE FOR SALE OR DISTRIBUTION  
17 AND WHO IS REQUIRED TO BE LICENSED UNDER SECTION 42-3201.

18 7. "CIGARETTE MANUFACTURER" MEANS ANY PERSON WHO MANUFACTURES,  
19 FABRICATES, ASSEMBLES, PROCESSES OR LABELS A FINISHED CIGARETTE AND WHO IS  
20 REQUIRED TO BE LICENSED UNDER SECTION 42-3201.

21 8. "CONSUMER" MEANS A PERSON IN THIS STATE WHO COMES INTO POSSESSION  
22 OF ANY LUXURY SUBJECT TO THE TAX IMPOSED BY THIS CHAPTER AND WHO, ON COMING  
23 INTO POSSESSION OF THE LUXURY, IS NOT A DISTRIBUTOR, CIGARETTE IMPORTER,  
24 CIGARETTE MANUFACTURER, RETAILER OR WHOLESALER.

25 ~~5-~~ 9. "Distributor" means any person who manufactures, produces,  
26 ships, transports or imports into this state or in any manner acquires or  
27 possesses for the purpose of making the first sale of the following:

28 (a) Cigarettes without stamps affixed as required by this article.

29 (b) Cigars or other tobacco products upon which the taxes have not  
30 been paid as required by this chapter.

31 ~~6-~~ 10. "Domestic farm winery" means a domestic farm winery licensed  
32 pursuant to title 4, chapter 2, article 1.

33 ~~7-~~ 11. "Domestic microbrewery" means a domestic microbrewery licensed  
34 pursuant to title 4, chapter 2, article 1.

35 ~~8-~~ 12. "First sale" means the ~~first~~ INITIAL sale or distribution in  
36 intrastate commerce or the ~~first~~ INITIAL use or consumption of cigarettes,  
37 cigars or other tobacco products.

38 ~~9-~~ 13. "Luxury" means any article, object or device upon which a tax  
39 is imposed under ~~the provisions of~~ this chapter.

40 ~~10-~~ 14. "Malt liquor" means any liquid that contains more than  
41 one-half of one per cent alcohol by volume and that is made by the process of  
42 fermentation and not distillation of hops or grains, but not including:

43 (a) Liquids made by the process of distillation of such substances.

44 (b) Medicines that are unsuitable for beverage purposes.



~~11.~~ 15. "Person" means any individual, firm, partnership, joint venture, association, corporation, municipal corporation, estate, trust, club, society or other group or combination acting as a unit, and the plural as well as the singular number.

~~12.~~ 16. "Retailer" means any person who comes into possession of ~~spirituous, vinous or malt liquor~~ ANY LUXURY subject to the taxes imposed by this chapter for the purpose of selling it for consumption and not for resale.

~~13.~~ 17. "Spirituous liquor" means any liquid that contains more than one-half of one per cent alcohol by volume, that is produced by distillation of any fermented substance and that is used or prepared for use as a beverage. Spirituous liquor does not include medicines that are unsuitable for beverage purposes.

~~14.~~ 18. "Vinous liquor" means any liquid that contains more than one-half of one per cent alcohol by volume and that is made by the process of fermentation of grapes, berries, fruits, vegetables or other substances but does not include:

(a) Liquids in which hops or grains are used in the process of fermentation.

(b) Liquids made by the process of distillation of hops or grains.

(c) Medicines that are unsuitable for beverage purposes.

~~15.~~ 19. "Wholesaler" means a person who sells any spirituous, vinous or malt liquor taxed under this chapter to retail dealers or for the purposes of resale only.

Sec. 6. Section 42-3004, Arizona Revised Statutes, is amended to read:

42-3004. Rules

The department may:

1. Adopt rules, not in conflict with this chapter, necessary for the enforcement of this chapter, including rules relating to refunds of taxes paid under this chapter.

2. Adopt different detailed rules applicable to diverse methods and conditions of sale or use of the luxuries upon which a tax is imposed by this chapter.

3. Prescribe in each luxury classification:

(a) Upon whom, as between the distributor, the wholesaler and the retailer or between the owner, lessor or other person in possession of any luxury, EXCEPT FOR CIGARETTES, the primary duty of affixing official stamps or official labels rests.

(b) The manner in which the stamps or labels shall be affixed.

Sec. 7. Section 42-3006, Arizona Revised Statutes, is amended to read:

42-3006. Revenue stamps

A. The department shall prepare and have on hand official adhesive stamps of the various types according to the classifications set forth in section 42-3052 of luxuries upon which a tax is imposed by this chapter.

1 B. The stamps shall be of a character so that they cannot be removed  
2 when once attached to an article without destroying them.

3 C. The stamps shall be printed in the form and manner prescribed by  
4 the director.

5 D. IN LIEU OF PURCHASING OFFICIAL TAX STAMPS FOR CIGARETTES, A  
6 REGISTERED INDIVIDUAL DESCRIBED IN SECTION 42-3201, SUBSECTION D MUST PAY ALL  
7 APPLICABLE TAXES IMPOSED BY THIS CHAPTER AND CHAPTER 5, ARTICLE 4 OF THIS  
8 TITLE AND FILE A RETURN IN A FORM AND MANNER PRESCRIBED BY THE DEPARTMENT.

9 E. THE DEPARTMENT SHALL PRESCRIBE BY RULE OR PROCEDURE THE METHOD AND  
10 MANNER IN WHICH STAMPS ARE TO BE AFFIXED TO CIGARETTES AND MAY PROVIDE FOR  
11 THE CANCELLATION OF STAMPS.

12 F. CIGARETTE STAMPS SHALL ALSO MEET THE REQUIREMENTS OF ARTICLE 5 OF  
13 THIS CHAPTER.

14 Sec. 8. Section 42-3007, Arizona Revised Statutes, is amended to read:

15 42-3007. Manner of affixing stamps

16 ~~A.~~ Every stamp required under this chapter shall be securely affixed  
17 to some visible part of the package or container to which it will firmly  
18 adhere during possession by the consumer, except as otherwise provided.  
19 CIGARETTE STAMPS SHALL ALSO MEET THE REQUIREMENTS OF ARTICLE 5 OF THIS  
20 CHAPTER.

21 ~~B. For purposes of this section, "consumer" means a person who comes~~  
22 ~~into possession of any luxuries subject to the tax imposed by this chapter~~  
23 ~~for the purpose of using, giving away or disposing of the luxuries in any~~  
24 ~~manner other than by sale, barter or exchange.~~

25 Sec. 9. Section 42-3010, Arizona Revised Statutes, is amended to read:

26 42-3010. Transaction invoices and other records: retention  
27 period

28 A. When any wholesaler or distributor in this state sells or delivers  
29 to any person any of the luxuries on which a tax is imposed by this chapter,  
30 the wholesaler or distributor shall make a duplicate invoice of the  
31 transaction, showing the date of delivery, the amount and value of each sale,  
32 shipment or consignment, and the name and location of the purchaser or person  
33 to whom delivery is made. The wholesaler or distributor shall file and  
34 retain the invoice for a period of two years, subject to inspection and use  
35 by the department.

36 B. Every wholesaler, distributor or retailer shall procure and retain  
37 invoices showing the amount and value of each purchase or shipment of any  
38 luxuries received, the date of the shipment, the name and location of the  
39 shipper and the value of the purchase or shipment. The wholesaler,  
40 distributor or retailer shall retain the invoices for a period of two years,  
41 subject to inspection and use by the department.

42 C. TRANSACTIONS THAT INVOLVE CIGARETTES SHALL ALSO MEET THE  
43 REQUIREMENTS OF ARTICLE 5 OF THIS CHAPTER.

1           Sec. 10. Section 42-3053, Arizona Revised Statutes, is amended to  
2 read:

3           42-3053. Method of payment; receipts

4           All remittances of taxes imposed by this chapter, **INCLUDING REMITTANCES**  
5 **FOR THE PURCHASE OF STAMPS**, shall be made by bank draft, check, cashier's  
6 check, money order or money to the department, which shall issue receipts to  
7 the taxpayers. A remittance other than cash does not constitute a final  
8 discharge of liability for the tax levied by this chapter until it has been  
9 paid in cash to the department.

10          Sec. 11. Section 42-3151, Arizona Revised Statutes, is amended to  
11 read:

12          42-3151. Inspection of records and stocks of luxuries

13          A. All books, papers, invoices and records of any wholesaler,  
14 distributor or retailer whether or not required under this chapter to be  
15 kept, showing sales, receipts and purchases of luxuries, shall be open for  
16 inspection by the department at all times ~~during the usual business hours~~.

17          B. Any stock of luxuries in and upon any ~~premises~~ **BUILDING, FACILITY,**  
18 **SITE OR PLACE** where placed, **PRODUCED**, stored or sold may be ~~examined~~  
19 **INSPECTED** by the department to determine compliance with this chapter.

20          C. **EXCEPT AS PROVIDED IN SUBSECTION D, ANY INSPECTION MUST BEGIN**  
21 **DURING THE NORMAL BUSINESS HOURS OF THE BUILDING, FACILITY, SITE OR PLACE**  
22 **BEING INSPECTED OR WHILE THE RESPONSIBLE WHOLESALER, DISTRIBUTOR OR RETAILER**  
23 **OR THE WHOLESALER'S, DISTRIBUTOR'S OR RETAILER'S AUTHORIZED AGENT IS PRESENT**  
24 **AT THE LOCATION.**

25          D. **ANY INSPECTION THAT DOES NOT BEGIN DURING NORMAL BUSINESS HOURS OR**  
26 **WHILE THE RESPONSIBLE WHOLESALER, DISTRIBUTOR OR RETAILER OR THE**  
27 **WHOLESALER'S, DISTRIBUTOR'S OR RETAILER'S AUTHORIZED AGENT IS NOT PRESENT**  
28 **REQUIRES A JUDICIAL WARRANT OR THE PRIOR WRITTEN CONSENT OF THE RESPONSIBLE**  
29 **WHOLESALER, DISTRIBUTOR OR RETAILER.**

30          Sec. 12. Section 42-3201, Arizona Revised Statutes, is amended to  
31 read:

32          42-3201. Licenses

33          A. **EXCEPT FOR THE SALE OF CIGARETTES**, every distributor acquiring or  
34 possessing for the purpose of making the ~~first~~ **INITIAL** sale **OR DISTRIBUTION**  
35 in this state any tobacco, ~~cigarettes~~ or cigars on which a tax is imposed by  
36 this chapter shall obtain from the department a license **TO SELL TOBACCO AND**  
37 **CIGARS**. The application for the license shall be in the form provided by the  
38 department and shall be accompanied by a fee of twenty-five dollars.

39          B. **A PERSON SHALL NOT ENGAGE IN BUSINESS AS A CIGARETTE MANUFACTURER,**  
40 **CIGARETTE IMPORTER OR CIGARETTE DISTRIBUTOR IN THIS STATE WITHOUT A LICENSE**  
41 **ISSUED BY THE DEPARTMENT. TO RECEIVE A LICENSE UNDER THIS SUBSECTION, EACH**  
42 **PERSON SHALL APPLY FOR A LICENSE ON A FORM PRESCRIBED BY THE DEPARTMENT. THE**  
43 **FORM SHALL STATE THAT THE INFORMATION FURNISHED BY THE APPLICANT ON THE**  
44 **APPLICATION MAY BE POSTED TO THE DEPARTMENT'S WEB SITE FOR PUBLIC**  
45 **INSPECTION. THE APPLICATION FOR A LICENSE SHALL INCLUDE THE APPLICANT'S NAME**

1 AND ADDRESS, THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS, LOCATIONS WHERE THE  
 2 APPLICANT'S BUSINESS IS CONDUCTED IN THIS STATE AND ANY OTHER INFORMATION  
 3 REQUIRED BY THE DEPARTMENT. IF THE APPLICANT IS A FIRM, PARTNERSHIP, LIMITED  
 4 LIABILITY COMPANY, LIMITED LIABILITY PARTNERSHIP OR ASSOCIATION, THE  
 5 APPLICANT SHALL LIST THE NAME AND ADDRESS OF EACH OF THE APPLICANT'S MEMBERS.  
 6 IF THE APPLICANT IS A CORPORATION, THE APPLICATION SHALL LIST THE NAME AND  
 7 ADDRESS OF THE APPLICANT'S OFFICERS AND ANY PERSON WHO DIRECTLY OR INDIRECTLY  
 8 OWNS AN AGGREGATE AMOUNT OF TEN PER CENT OR MORE OF THE OWNERSHIP INTEREST IN  
 9 THE CORPORATION. EACH APPLICATION SHALL INCLUDE A FEE OF TWENTY-FIVE  
 10 DOLLARS. IF A LICENSEE CHANGES ITS BUSINESS LOCATION, THE LICENSEE UNDER  
 11 THIS SUBSECTION SHALL NOTIFY THE DEPARTMENT WITHIN THIRTY DAYS AFTER A CHANGE  
 12 IN LOCATION.

13 ~~B.~~ C. The department shall issue a license authorizing the applicant  
 14 to acquire or possess tobacco, cigarettes and cigars in this state upon the  
 15 condition that the applicant complies with this chapter and the rules of the  
 16 department. The license:

- 17 1. Shall be nontransferable.
- 18 2. Shall be valid for one year unless earlier revoked by the
- 19 department.
- 20 3. Shall, for an applicant selling or offering for sale tobacco,
- 21 cigarettes and cigars, be displayed in the applicant's place of business.

22 D. AN INDIVIDUAL WHO ACQUIRES OR POSSESSES UNSTAMPED CIGARETTES SOLELY  
 23 FOR THAT INDIVIDUAL'S OWN USE OR CONSUMPTION IN THIS STATE MUST REGISTER WITH  
 24 THE DEPARTMENT ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT TO  
 25 REMIT TAXES IMPOSED BY THIS CHAPTER AND CHAPTER 5, ARTICLE 4 OF THIS TITLE.  
 26 THE REGISTRATION IS FREE OF CHARGE. ON REGISTRATION, THE INDIVIDUAL MUST PAY  
 27 ALL APPLICABLE TAXES IMPOSED BY THIS CHAPTER AND CHAPTER 5, ARTICLE 4 OF THIS  
 28 TITLE AND FILE ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT.

29 E. AN INDIVIDUAL MUST BE LICENSED AS A CIGARETTE DISTRIBUTOR IF THE  
 30 INDIVIDUAL ACQUIRES OR POSSESSES UNSTAMPED CIGARETTES IN THIS STATE FOR SALE,  
 31 BARTER OR EXCHANGE OR FOR ANY OTHER PURPOSE BESIDES OR IN ADDITION TO THAT  
 32 INDIVIDUAL'S OWN USE OR CONSUMPTION.

33 ~~E.~~ F. A person who is convicted of an offense described in section  
 34 42-1127, subsection ~~D~~ E is permanently ineligible to hold a license issued  
 35 under this section.

36 G. THE DEPARTMENT SHALL NOT ISSUE OR RENEW A LICENSE TO AN APPLICANT  
 37 AND SHALL REVOKE A LICENSE ISSUED UNDER SUBSECTION B OF THIS SECTION IF ANY  
 38 OF THE FOLLOWING APPLY:

- 39 1. THE APPLICANT OWES FIVE HUNDRED DOLLARS OR MORE IN DELINQUENT
- 40 CIGARETTE TAXES.
- 41 2. THE DEPARTMENT HAS REVOKED ANY LICENSE HELD BY THE APPLICANT WITHIN
- 42 THE PREVIOUS TWO YEARS.
- 43 3. THE APPLICANT HAS BEEN CONVICTED OF A CRIME THAT RELATES TO STOLEN
- 44 OR COUNTERFEIT CIGARETTES.

4. THE APPLICANT IS A CIGARETTE MANUFACTURER OR CIGARETTE IMPORTER WHO IS NOT IN FULL COMPLIANCE WITH SECTIONS 44-7101 AND 44-7111.

5. THE APPLICANT HAS IMPORTED CIGARETTES INTO THE UNITED STATES FOR SALE OR DISTRIBUTION IN VIOLATION OF 19 UNITED STATES CODE SECTION 1681a.

6. THE APPLICANT HAS IMPORTED CIGARETTES INTO THE UNITED STATES FOR SALE OR DISTRIBUTION WITHOUT FULLY COMPLYING WITH THE FEDERAL CIGARETTE LABELING AND ADVERTISING ACT (P.L. 89-92; 79 STAT. 282; 15 UNITED STATES CODE SECTION 1331).

H. IN ADDITION TO ANY OTHER CIVIL OR CRIMINAL PENALTY, THE DEPARTMENT MAY SUSPEND OR REVOKE A LICENSE ISSUED UNDER SUBSECTION B OF THIS SECTION IF THE PERSON VIOLATES ANY REQUIREMENT UNDER THIS TITLE. A SUSPENSION OR REVOCATION UNDER THIS SUBSECTION SHALL COMPLY WITH SECTION 41-1092.11, SUBSECTION B.

I. THE DEPARTMENT SHALL PUBLISH ON ITS WEB SITE THE NAMES OF EACH PERSON WHO IS ISSUED A LICENSE UNDER SUBSECTION B OF THIS SECTION. THE DEPARTMENT SHALL UPDATE THE PUBLISHED NAMES AT LEAST ONCE EACH MONTH.

Sec. 13. Title 42, chapter 3, article 5, Arizona Revised Statutes, is amended by adding section 42-3201.01, to read:

42-3201.01. Transactions with licensed cigarette manufacturers, importers and distributors

A. A CIGARETTE MANUFACTURER OR CIGARETTE IMPORTER MAY SELL OR DISTRIBUTE CIGARETTES TO A PERSON WHO IS LOCATED OR DOING BUSINESS IN THIS STATE, INCLUDING INDIAN RESERVATIONS LOCATED IN THIS STATE, ONLY IF THE PERSON IS A LICENSED CIGARETTE IMPORTER OR CIGARETTE DISTRIBUTOR.

B. A CIGARETTE IMPORTER MAY OBTAIN CIGARETTES ONLY FROM A LICENSED CIGARETTE MANUFACTURER.

C. A CIGARETTE DISTRIBUTOR MAY SELL OR DISTRIBUTE CIGARETTES TO A PERSON LOCATED OR DOING BUSINESS IN THIS STATE, INCLUDING AN INDIAN RESERVATION IN THIS STATE, ONLY IF THE PERSON IS A LICENSED CIGARETTE DISTRIBUTOR.

D. A CIGARETTE DISTRIBUTOR SHALL OBTAIN CIGARETTES ONLY FROM A LICENSED CIGARETTE MANUFACTURER, CIGARETTE IMPORTER OR CIGARETTE DISTRIBUTOR.

Sec. 14. Section 42-3202, Arizona Revised Statutes, is amended to read:

42-3202. Payment of tax required to sell cigarettes, cigars and tobacco products

A ~~distributor~~ PERSON may not:

1. Sell or offer for sale any tobacco, cigarettes or cigars upon which a tax is imposed by this article to any person within this state unless the tax has been paid on the tobacco, cigarettes or cigars as evidenced by a stamp or any other official indicia.

2. Sell cigarettes that have tax stamps affixed unless the tax evidenced by the stamps is actually paid. The department shall not refund any amount of that tax on the grounds that the stamps are not required to be affixed to the cigarettes.

1       Sec. 15. Title 42, chapter 3, article 5, Arizona Revised Statutes, is  
2 amended by adding sections 42-3202.01, 42-3202.02 and 42-3202.03, to read:

3       42-3202.01. Presumption of tax on unstamped cigarettes

4       FOR THE PURPOSE OF PROPER ADMINISTRATION AND TO PREVENT EVASION OF THE  
5 TAXES IMPOSED BY THIS CHAPTER, UNTIL THE CONTRARY IS ESTABLISHED, IT IS  
6 PRESUMED THAT CIGARETTES THAT ARE MANUFACTURED, PRODUCED, SHIPPED,  
7 TRANSPORTED, IMPORTED OR IN ANY MANNER ACQUIRED OR POSSESSED BY A PERSON IN  
8 THIS STATE, BUT NOT PLACED IN PACKAGES OR CONTAINERS ON WHICH OFFICIAL TAX  
9 STAMPS ARE AFFIXED, ARE INTENDED FOR FIRST SALE BY THE PERSON AND ARE SUBJECT  
10 TO THE TAXES IMPOSED BY THIS CHAPTER.

11       42-3202.02. Exemptions and exclusions of certain unstamped  
12                                   cigarettes from luxury tax

13       A. THE TAXES IMPOSED BY THIS CHAPTER DO NOT APPLY TO:

14       1. CIGARETTES OR TOBACCO PRODUCTS THAT ARE SOLD TO THE UNITED STATES  
15 ARMY, AIR FORCE, NAVY, MARINE CORPS OR COAST GUARD EXCHANGES AND COMMISSARIES  
16 AND NAVY OR COAST GUARD SHIPS' STORES.

17       2. CIGARETTES OR TOBACCO PRODUCTS THAT ARE SOLD TO THE UNITED STATES  
18 VETERANS' ADMINISTRATION.

19       3. CIGARETTES OR TOBACCO PRODUCTS THAT ARE NON-TAX-PAID UNDER SUBTITLE  
20 E, CHAPTER 52 OF THE INTERNAL REVENUE CODE AND THAT ARE UNDER INTERNAL  
21 REVENUE BOND OR CUSTOMS CONTROL.

22       4. CIGARETTES OR TOBACCO PRODUCTS THAT ARE SOLD OR TRANSFERRED TO A  
23 LAW ENFORCEMENT AGENCY FOR USE IN A CRIMINAL INVESTIGATION IF THE SALE OR  
24 TRANSFER IS AUTHORIZED BY THE DEPARTMENT. A LAW ENFORCEMENT AGENCY  
25 AUTHORIZED BY THE DEPARTMENT TO RECEIVE OR PURCHASE CIGARETTES OR TOBACCO  
26 PRODUCTS IS NOT REQUIRED TO:

27       (a) BE LICENSED AS A DISTRIBUTOR.

28       (b) COLLECT OR REMIT THE TAX IMPOSED BY THIS CHAPTER WITH RESPECT TO  
29 AUTHORIZED DISTRIBUTIONS.

30       5. CIGARETTES OR TOBACCO PRODUCTS THAT ARE SOLD BY A DISTRIBUTOR  
31 LICENSED UNDER SECTION 42-3201 TO A COMMON CARRIER ENGAGED IN INTERSTATE OR  
32 FOREIGN PASSENGER SERVICE OR TO A RETAILER THAT SELLS CIGARETTES OR TOBACCO  
33 PRODUCTS ON THE FACILITIES OF THE CARRIER.

34       6. FEDERALLY TAX FREE CIGARETTES OR TOBACCO PRODUCTS THAT ARE SOLD OR  
35 GIVEN FOR DELIVERY DIRECTLY FROM THE MANUFACTURER UNDER INTERNAL REVENUE BOND  
36 TO A VETERANS' HOME OF THIS STATE OR A HOSPITAL OR DOMICILIARY FACILITY OF  
37 THE UNITED STATES VETERANS' ADMINISTRATION FOR GRATUITOUS ISSUE TO VETERANS  
38 RECEIVING HOSPITALIZATION OR DOMICILIARY CARE. THE TAXES ARE NOT IMPOSED  
39 WITH RESPECT TO THE USE OR CONSUMPTION OF THE CIGARETTES OR TOBACCO PRODUCTS  
40 BY THE INSTITUTION, VETERAN PATIENTS OR DOMICILIARIES.

41       7. CIGARETTES OR TOBACCO PRODUCTS THAT ARE SOLD BY A MANUFACTURER TO A  
42 DISTRIBUTOR LICENSED UNDER SECTION 42-3201.

43       8. CIGARETTES OR TOBACCO PRODUCTS THAT ARE MANUFACTURED OUTSIDE THE  
44 UNITED STATES AND THAT ARE SOLD BY AN IMPORTER TO A DISTRIBUTOR LICENSED  
45 UNDER SECTION 42-3201.

1 B. SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION DO NOT APPLY AFTER  
 2 THE FIRST DAY OF THE FIRST CALENDAR MONTH BEGINNING MORE THAN SIXTY DAYS  
 3 AFTER EXISTING FEDERAL LAW IS AMENDED TO PERMIT STATE TAXATION OF CIGARETTES  
 4 SOLD BY OR THROUGH FEDERAL MILITARY INSTALLATIONS.

5 C. SALES OF CIGARETTES AND TOBACCO PRODUCTS BY A LICENSED DISTRIBUTOR  
 6 TO AN INSTRUMENTALITY OF THE UNITED STATES GOVERNMENT MUST BE SUPPORTED BY A  
 7 SEPARATE SALES INVOICE AND A PROPERLY COMPLETED FEDERAL EXEMPTION  
 8 CERTIFICATE. EACH SALES INVOICE MUST BE NUMBERED, BE DATED AND SHOW THE NAME  
 9 OF THE SELLER, THE NAME OF THE PURCHASER AND THE DESTINATION.

10 D. THIS SECTION DOES NOT AFFECT THE IMPOSITION OF TRANSACTION  
 11 PRIVILEGE AND USE TAXES PURSUANT TO CHAPTER 5 OF THIS TITLE TO ANY  
 12 TRANSACTIONS DESCRIBED IN SUBSECTION A OF THIS SECTION IF THE TRANSACTION IS  
 13 OTHERWISE SUBJECT TO TRANSACTION PRIVILEGE TAX OR USE TAX.

14 E. THE EXEMPTIONS AND EXCLUSIONS PROVIDED IN SUBSECTION A OF THIS  
 15 SECTION DO NOT AFFECT THE TAXABILITY UNDER THIS CHAPTER OF CIGARETTES OR  
 16 TOBACCO PRODUCTS THAT ARE SOLD, GIVEN OR TRANSFERRED TO A PERSON IN THIS  
 17 STATE SUBSEQUENT TO THE TRANSACTIONS DESCRIBED IN SUBSECTION A OF THIS  
 18 SECTION.

19 42-3202.03. Cigarette stamps

20 A. EACH ROLL OF STAMPS OR SHEETS OF STAMPS FOR CIGARETTES THAT ARE  
 21 REQUIRED UNDER THIS CHAPTER SHALL HAVE A SEPARATE SERIAL NUMBER THAT IS  
 22 LEGIBLE AT THE POINT OF SALE TO THE DISTRIBUTOR. THE DEPARTMENT SHALL USE  
 23 THE SERIAL NUMBER TO KEEP RECORDS OF EACH CIGARETTE DISTRIBUTOR WHO PURCHASES  
 24 EACH ROLL OR SHEETS OF STAMPS. THE DEPARTMENT SHALL NOT SELL STAMPS THAT  
 25 HAVE THE SAME SERIAL NUMBER TO MORE THAN ONE CIGARETTE DISTRIBUTOR. THE  
 26 DEPARTMENT MAY SELL A PARTIAL ROLL OR SHEETS OF STAMPS TO A CIGARETTE  
 27 DISTRIBUTOR AND SHALL RETAIN THE REMAINDER OF THE ROLL OR SHEETS TO  
 28 SUBSEQUENTLY SELL TO THE SAME CIGARETTE DISTRIBUTOR OR SHALL DESTROY THE  
 29 REMAINDER OF THE ROLL OR SHEET.

30 B. ONLY LICENSED CIGARETTE DISTRIBUTORS MAY PURCHASE, OBTAIN OR AFFIX  
 31 CIGARETTE STAMPS. CIGARETTE DISTRIBUTORS SHALL NOT SELL OR PROVIDE STAMPS TO  
 32 ANY OTHER CIGARETTE DISTRIBUTOR OR PERSON. WHEN AFFIXING CIGARETTE STAMPS TO  
 33 CIGARETTES, CIGARETTE DISTRIBUTORS SHALL ENSURE THAT THE AFFIXATION METHOD  
 34 THAT IS USED MAINTAINS THE LEGIBILITY OF THE SERIAL NUMBERS ON THE STAMPS.

35 C. THE DEPARTMENT MAY AUTHORIZE THE USE OF A METERING MACHINE. IF THE  
 36 DEPARTMENT AUTHORIZES THE USE OF A METERING MACHINE, THE DEPARTMENT SHALL  
 37 ASSIGN A UNIQUE METER IMPRESSION NUMBER TO EACH CIGARETTE DISTRIBUTOR AND  
 38 ENSURE THAT THE IMPRESSION IS LEGIBLE AT THE POINT OF SALE. THE DEPARTMENT  
 39 SHALL KEEP RECORDS THAT INDICATE THE ASSIGNED METER IMPRESSION NUMBER FOR  
 40 EACH CIGARETTE DISTRIBUTOR.

41 Sec. 16. Section 42-3203, Arizona Revised Statutes, is amended to  
 42 read:

43 42-3203. Stamped packages required for cigarettes; exception

44 A. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, all cigarettes on  
 45 which a tax is imposed by this chapter shall be placed in packages or

containers and on each package or container shall be affixed an official stamp described in section 42-3006, ~~pursuant to~~ OR 42-3202.03. AN AFFIXED STAMP SHALL BE EVIDENCE THAT THE TAXES LEVIED BY sections 42-3052, ~~and~~ 42-3251 AND 42-3251.01 ARE PAID.

~~B. All cigarettes on which a tax is imposed by this chapter and which are sold or delivered by any distributor shall have affixed the luxury stamps described in section 42-3006.~~

B. CIGARETTE DISTRIBUTORS ARE LIABLE FOR AFFIXING OFFICIAL STAMPS OR OTHERWISE APPLYING TAX INDICIA TO CIGARETTES THAT ARE SUBJECT TO A TAX IMPOSED BY THIS CHAPTER. A LICENSED CIGARETTE DISTRIBUTOR SHALL APPLY A STAMP TO EACH PACKAGE OF CIGARETTES THAT IS SOLD OR DISTRIBUTED IN THIS STATE AND THAT IS SUBJECT TO TAX UNDER THIS CHAPTER, INCLUDING CIGARETTES THAT ARE SUBJECT TO TAX UNDER SECTION 42-3302. A LICENSED CIGARETTE DISTRIBUTOR SHALL APPLY A TAX EXEMPT STAMP TO CIGARETTE PACKAGES THAT ARE NOT SUBJECT TO TAX UNDER SECTION 42-3304, SUBSECTION A, PARAGRAPH 2.

C. CIGARETTES THAT ARE EXEMPT FROM TAX UNDER 26 UNITED STATES CODE SECTION 5701 AND THAT ARE DISTRIBUTED ACCORDING TO FEDERAL REGULATIONS ARE NOT SUBJECT TO TAX AND DO NOT REQUIRE A STAMP UNDER THIS CHAPTER.

D. A RETAILER SHALL NOT OFFER FOR SALE CIGARETTES IN QUANTITIES THAT ARE NOT PACKAGED AS SUCH FOR SALE BY THE CIGARETTE MANUFACTURER.

Sec. 17. Section 42-3204, Arizona Revised Statutes, is amended to read:

42-3204. Affixing stamps and paying tax on cigarettes from out of state

A. Every LICENSED CIGARETTE distributor ~~who purchases or acquires cigarettes on which a tax is imposed by this chapter from any person not doing business in this state, and on which stamps evidencing the payment of the tax have not been affixed, shall~~ LOCATED IN THIS STATE, within forty-eight hours after receiving ~~the~~ cigarettes, SHALL cause stamps in the amount of the tax imposed by this chapter to be affixed on all ~~such~~ PACKAGES OF cigarettes ~~in the distributor's possession.~~ THAT ARE SUBJECT TO TAX UNDER THIS CHAPTER AND SHALL CAUSE TAX EXEMPT STAMPS TO BE AFFIXED ON ALL PACKAGES OF CIGARETTES THAT ARE NOT SUBJECT TO TAX UNDER SECTION 42-3304. LICENSED CIGARETTE DISTRIBUTORS WHO ARE LOCATED OUTSIDE OF THIS STATE SHALL APPLY STAMPS TO ALL APPLICABLE CIGARETTE PACKAGES BEFORE SENDING THE PACKAGES INTO THIS STATE.

B. CIGARETTE DISTRIBUTORS MAY APPLY STAMPS ONLY TO CIGARETTE PACKAGES THAT THE CIGARETTE DISTRIBUTORS HAVE DIRECTLY RECEIVED FROM A LICENSED CIGARETTE MANUFACTURER OR CIGARETTE IMPORTER.

C. NOTWITHSTANDING SECTION 42-3202.02, CIGARETTE DISTRIBUTORS MAY SET ASIDE, WITHOUT APPLICATION OF STAMPS, A PORTION OF THE DISTRIBUTOR'S STOCK THAT IS IDENTIFIED FOR SALE OR DISTRIBUTION OUTSIDE OF THIS STATE IF THE UNSTAMPED CIGARETTES ARE STORED IN A SEPARATE PHYSICAL LOCATION FROM STAMPED CIGARETTE PACKAGES IN A METHOD AND MANNER FOR WHICH THE DEPARTMENT HAS ISSUED PRIOR WRITTEN AUTHORIZATION. UNSTAMPED CIGARETTE PACKAGES SHALL NOT BE



1 TRANSFERRED BY A CIGARETTE DISTRIBUTOR TO ANOTHER FACILITY THAT IS OPERATED  
2 BY THE CIGARETTE DISTRIBUTOR IN THIS STATE OR TO ANOTHER PERSON IN THIS  
3 STATE.

4 D. ANY PERSON WHO CONDUCTS BUSINESS AS A CIGARETTE DISTRIBUTOR AND A  
5 RETAILER SHALL MAINTAIN SEPARATE AREAS FOR STAMPED AND UNSTAMPED CIGARETTE  
6 PRODUCTS.

7 Sec. 18. Title 42, chapter 3, article 5, Arizona Revised Statutes, is  
8 amended by adding section 42-3205, to read:

9 42-3205. Unstamped cigarettes

10 A. A PERSON SHALL NOT POSSESS AN UNSTAMPED CIGARETTE PACKAGE UNLESS  
11 THE PERSON IS SHIPPING OR TRANSPORTING UNSTAMPED CIGARETTES PURSUANT TO  
12 SUBSECTION B OF THIS SECTION, IS A LICENSED CIGARETTE MANUFACTURER OR  
13 LICENSED CIGARETTE IMPORTER OR IS A LICENSED CIGARETTE DISTRIBUTOR WHO  
14 RECEIVES UNSTAMPED CIGARETTE PACKAGES DIRECTLY FROM A LICENSED CIGARETTE  
15 MANUFACTURER OR CIGARETTE IMPORTER AND POSSESSES THE CIGARETTES PURSUANT TO  
16 SECTION 42-3204, SUBSECTION C.

17 B. EXCEPT FOR A LICENSED CIGARETTE MANUFACTURER, CIGARETTE IMPORTER OR  
18 CIGARETTE DISTRIBUTOR, A PERSON WHO SHIPS UNSTAMPED CIGARETTE PACKAGES IN OR  
19 INTO THIS STATE SHALL FIRST FILE WITH THE DEPARTMENT A NOTICE OF SHIPMENT.  
20 THIS SUBSECTION DOES NOT APPLY TO ANY COMMON OR CONTRACT CARRIER THAT IS  
21 TRANSPORTING CIGARETTES THROUGH THIS STATE TO ANOTHER LOCATION UNDER A PROPER  
22 BILL OF LADING OR FREIGHT BILL THAT STATES THE QUANTITY, SOURCE AND  
23 DESTINATION OF THE CIGARETTES.

24 C. A PERSON WHO TRANSPORTS UNSTAMPED CIGARETTE PACKAGES IN OR INTO  
25 THIS STATE SHALL CARRY IN THE VEHICLE USED TO CONVEY THE SHIPMENT INVOICES OR  
26 EQUIVALENT DOCUMENTATION OF THE SHIPMENT FOR ALL CIGARETTES IN THE SHIPMENT.  
27 THE INVOICES OR DOCUMENTATION SHALL INDICATE THE NAME AND ADDRESS OF THE  
28 CONSIGNOR OR SELLER, THE NAME AND ADDRESS OF THE CONSIGNEE OR PURCHASER AND  
29 THE QUANTITY OF EACH BRAND OF CIGARETTES THAT IS TRANSPORTED.

30 Sec. 19. Section 42-3206, Arizona Revised Statutes, is amended to  
31 read:

32 42-3206. Cigarette stamp discount purchases

33 The official stamps to be affixed to packages of cigarettes shall be  
34 obtainable from the department by each licensed CIGARETTE distributor by  
35 purchase at the following discount rates:

36 1. Ninety-six per cent of the face value for the first thirty-six  
37 thousand dollars worth of stamps purchased by the distributor in any month.

38 2. Ninety-seven per cent of the face value for the second thirty-six  
39 thousand dollars worth of stamps purchased by the distributor in any month.

40 3. Ninety-eight per cent of the face value on all stamps in excess of  
41 seventy-two thousand dollars purchased by the distributor in any month,  
42 except that if a distributor purchases more than one hundred sixty-five  
43 thousand dollars worth of stamps in one month, the department shall offset  
44 against the discount under this paragraph, or the distributor shall refund to  
45 the department, the difference between the face value and the discounted

1 value of the first seventy-two thousand dollars worth of stamps under  
2 paragraphs 1 and 2.

3 Sec. 20. Section 42-3207, Arizona Revised Statutes, is amended to  
4 read:

5 42-3207. Secured cigarette stamp purchases on credit;  
6 cancellation of credit privileges; collection action

7 A. Subject to subsections B and C, a licensed CIGARETTE distributor  
8 who furnishes a bond of a surety company qualified to do business in this  
9 state, in an amount equal to two times the amount of the distributor's  
10 current monthly stamp purchases and conditioned upon the payment within the  
11 time prescribed, may make payment for the official stamp on or before the  
12 twentieth day of the month next following the purchase of an official stamp.  
13 All other CIGARETTE distributors shall pay for each stamp at the time of  
14 purchase.

15 B. Upon a finding that the amount of stamp purchases, or meter machine  
16 usage, exceeds seventy-five per cent of the amount of the bond the department  
17 may cancel the credit privileges provided to qualified CIGARETTE distributors  
18 pursuant to subsection A.

19 C. If the indebtedness of a CIGARETTE distributor whose credit  
20 privileges have been canceled pursuant to this section remains unpaid for  
21 thirty days after cancellation the director shall request the attorney  
22 general to take suitable action on behalf of the department to collect either  
23 on the indebtedness or the surety bond.

24 Sec. 21. Section 42-3209, Arizona Revised Statutes, is amended to  
25 read:

26 42-3209. Redemption of unused tobacco product stamps and meter  
27 registration

28 A. The department shall redeem unused stamps that a distributor OR  
29 CIGARETTE DISTRIBUTOR presents for redemption and shall pay for them from  
30 monies collected under this chapter.

31 B. Under rules adopted by the department, the department shall redeem  
32 the unused amount of tax for which any meter is registered and shall pay for  
33 it from monies collected under this chapter.

34 Sec. 22. Section 42-3210, Arizona Revised Statutes, is amended to  
35 read:

36 42-3210. Unlawful use of stamps; classification; definition

37 A. A person may not affix a tax stamp to a package of cigarettes if  
38 the package:

39 1. Differs from the requirements of the federal cigarette labeling and  
40 advertising act (P.L. 89-92; 79 Stat. 282; 15 United States Code section  
41 1331) relating to label warnings or other information on packages of  
42 cigarettes for sale in the United States.

43 2. Is labeled "for export only", "U.S. tax exempt", "for use outside  
44 U.S." or with similar words that indicate the manufacturer did not intend for  
45 the product to be sold in the United States.

1           3. Has been altered by adding or deleting the wording, labels or  
2 warnings described in paragraph 1 or 2 **OF THIS SUBSECTION.**

3           4. Is placed in a carton, or any other package containing several  
4 individually stamped packages, that has been altered by adding or deleting  
5 the wording, labels or warnings described in paragraph 1 or 2 **OF THIS**  
6 **SUBSECTION.**

7           5. Has been imported into the United States on or after January 1,  
8 2000 in violation of 26 United States Code section 5754 or is the subject of  
9 a violation of 19 United States Code sections 1681 through 1681b, ~~inclusive,~~  
10 or 15 United States Code section 1335a.

11           6. Violates federal trademark or copyright laws.

12           B. The director ~~may~~:

13           1. **MAY** revoke any license issued to a **CIGARETTE** distributor who sells  
14 or offers for sale cigarette packages that are stamped in violation of  
15 subsection A ~~of this section.~~

16           2. **SHALL** seize and destroy, ~~or sell to the manufacturer,~~ packages of  
17 cigarettes that are stamped in violation of subsection A.

18           C. A person who sells or offers for sale cigarette packages that are  
19 stamped in violation of subsection A is guilty of a class 2 misdemeanor.

20           D. Any person who sells, distributes, ~~or manufactures~~ cigarettes and  
21 sustains direct economic or commercial injury as a result of a violation of  
22 this section may bring an action in good faith for appropriate injunctive  
23 relief.

24           E. This section does not apply to cigarettes allowed to be imported or  
25 brought into the United States for personal use, or to cigarettes sold or  
26 intended to be sold as duty free merchandise by a duty free sales enterprise  
27 pursuant to 19 United States Code section 1555(b). This subsection does not  
28 apply to cigarettes that are brought back into the customs territory for  
29 resale within the customs territory.

30           F. A violation of this section is also a violation of title 44,  
31 chapter 10, article 7.

32           G. For **THE** purposes of this section, "package" means any kind of pack,  
33 carton or container in which cigarettes are sold, offered for sale or  
34 otherwise distributed or intended for distribution to consumers.

35           Sec. 23. Section 42-3211, Arizona Revised Statutes, is amended to  
36 read:

37           **42-3211. Cigarette distributors; filing requirements**

38           A. On or before the twentieth day of each month, each cigarette  
39 distributor shall file a return in a form prescribed by the department **FOR**  
40 **EACH PLACE OF BUSINESS.** ~~for all cigarettes that are imported into the United~~  
41 ~~States during the preceding month on which the distributor affixed the luxury~~  
42 ~~stamp pursuant to section 42-3203.~~ The return shall contain **ALL OF THE**  
43 **FOLLOWING:**

44           ~~1. A schedule that lists each brand and brand style of cigarettes.~~

45           ~~2. The quantity of each brand style of cigarettes.~~

1           ~~3. Each cigarette supplier.~~  
2           ~~4. Each person, if any, to whom the cigarettes have been conveyed for~~  
3           ~~resale.~~  
4           1. THE QUANTITIES OF EACH BRAND OF CIGARETTES IN POSSESSION AT THE  
5 BEGINNING AND END OF THE REPORTING PERIOD.  
6           2. THE QUANTITIES OF EACH BRAND OF CIGARETTES RECEIVED DURING THE  
7 REPORTING PERIOD AND THE NAME AND ADDRESS OF EACH PERSON FROM WHOM EACH  
8 PRODUCT WAS RECEIVED.  
9           3. THE QUANTITIES OF EACH BRAND OF CIGARETTES DISTRIBUTED OR SHIPPED  
10 INTO THIS STATE OR BETWEEN LOCATIONS IN THIS STATE DURING THE REPORTING  
11 PERIOD, EXCEPT FOR SALES DIRECTLY TO CONSUMERS, AND THE NAME AND ADDRESS OF  
12 EACH PERSON TO WHOM EACH PRODUCT WAS DISTRIBUTED OR SHIPPED.  
13           4. THE QUANTITIES OF EACH BRAND OF CIGARETTES DISTRIBUTED OR SHIPPED  
14 TO ANY DESTINATION WHEREVER LOCATED, INCLUDING THE QUANTITIES REPORTED UNDER  
15 PARAGRAPH 3 OF THIS SUBSECTION DURING THE REPORTING PERIOD, EXCEPT FOR SALES  
16 DIRECTLY TO CONSUMERS, AND THE NAME AND ADDRESS OF EACH PERSON TO WHOM EACH  
17 PRODUCT WAS DISTRIBUTED OR SHIPPED.  
18           5. THE QUANTITIES OF EACH BRAND OF CIGARETTES SOLD TO CONSUMERS THAT  
19 ARE ITEMIZED TO SHOW SALES TO CONSUMERS IN THIS STATE AND SALE TO CONSUMERS  
20 OUTSIDE OF THIS STATE.  
21           ~~5.~~ 6. Copies of the customs certificates with respect to such  
22 cigarettes required to be submitted by 19 United States Code section  
23 1681a(c).  
24           B. CIGARETTE MANUFACTURERS AND CIGARETTE IMPORTERS WHO SHIP CIGARETTES  
25 INTO OR IN THIS STATE SHALL FILE A MONTHLY REPORT WITH THE DEPARTMENT. THE  
26 REPORT SHALL CONTAIN THE INFORMATION REGARDING CIGARETTES DESCRIBED UNDER  
27 SUBSECTION A, PARAGRAPH 3 OF THIS SECTION.  
28           C. CIGARETTE DISTRIBUTOR REPORTS THAT ARE SUBMITTED UNDER SUBSECTION A  
29 OF THIS SECTION SHALL BE ITEMIZED TO DISCLOSE THE QUANTITY OF REPORTED  
30 CIGARETTES BEARING TAX STAMPS OF THIS STATE, TAX EXEMPT STAMPS OF THIS STATE,  
31 STAMPS OF ANOTHER STATE AND UNSTAMPED CIGARETTES. THE DISTRIBUTOR REPORTS  
32 SHALL ALSO INCLUDE, IF APPLICABLE, THE FOLLOWING:  
33           1. THE QUANTITY OF ARIZONA TAX AND TAX EXEMPT STAMPS THAT WERE NOT  
34 AFFIXED TO CIGARETTES.  
35           2. THE QUANTITY OF ARIZONA TAX AND TAX EXEMPT STAMPS THAT THE  
36 DISTRIBUTOR POSSESSED AT THE BEGINNING AND END OF THE REPORTING PERIOD.  
37           3. THE QUANTITY OF EACH TYPE OF ARIZONA STAMP RECEIVED DURING THE  
38 REPORTING PERIOD.  
39           4. THE QUANTITY OF EACH TYPE OF ARIZONA STAMP APPLIED DURING THE  
40 REPORTING PERIOD.  
41           D. THE DEPARTMENT MAY ADOPT RULES REQUIRING ADDITIONAL INFORMATION IN  
42 THE MONTHLY REPORTS AS NECESSARY FOR THE PURPOSES OF ENFORCING THIS ARTICLE.  
43           E. PUBLIC ACCESS TO REPORTS SUBMITTED BY LICENSEES SHALL BE ALLOWED  
44 PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2, EXCEPT THAT INFORMATION ABOUT

1 QUANTITIES OF CIGARETTES BY BRAND SHALL NOT BE RELEASED TO ANYONE EXCEPT  
2 INDIVIDUALS WHO ARE AUTHORIZED UNDER SECTION 42-3212, SUBSECTION E.

3 Sec. 24. Title 42, chapter 3, article 5, Arizona Revised Statutes, is  
4 amended by adding section 42-3212, to read:

5 42-3212. Records

6 A. EXCEPT FOR RETAIL TRANSACTIONS WITH CONSUMERS, EACH CIGARETTE  
7 MANUFACTURER, CIGARETTE IMPORTER AND CIGARETTE DISTRIBUTOR SHALL MAINTAIN  
8 COPIES OF INVOICES OR EQUIVALENT DOCUMENTATION FOR EACH FACILITY AND FOR EACH  
9 TRANSACTION THAT INVOLVES THE SALE, PURCHASE, TRANSFER, CONSIGNMENT OR  
10 RECEIPT OF CIGARETTES. THE INVOICES OR DOCUMENTATION SHALL INDICATE THE NAME  
11 AND ADDRESS OF THE OTHER PARTY AND THE QUANTITY BY BRAND STYLE OF THE  
12 CIGARETTES INVOLVED IN THE TRANSACTION.

13 B. A CIGARETTE DISTRIBUTOR SHALL ISSUE AN INVOICE OR EQUIVALENT  
14 DOCUMENTATION FOR EACH TRANSACTION THAT INVOLVES THE SALE, PURCHASE OR  
15 CONSIGNMENT OF CIGARETTES TO A RETAILER. THE INVOICE OR EQUIVALENT  
16 DOCUMENTATION MUST INCLUDE THE LICENSE NUMBER OF THE CIGARETTE DISTRIBUTOR,  
17 WHICH THE RETAILER MAY USE TO ASCERTAIN WHETHER THE LICENSE IS CURRENT AND  
18 VALID.

19 C. RECORDS REQUIRED UNDER THIS SECTION SHALL BE PRESERVED ON THE  
20 PREMISES DESCRIBED IN THE RELEVANT LICENSE IN A MANNER AS TO ENSURE  
21 PERMANENCY AND ACCESSIBILITY FOR INSPECTION AT REASONABLE HOURS BY AUTHORIZED  
22 PERSONNEL OF THE DEPARTMENT. WITH THE DEPARTMENT'S PERMISSION, PERSONS WITH  
23 MULTIPLE PLACES OF BUSINESS MAY RETAIN CENTRALIZED RECORDS, BUT SHALL  
24 TRANSMIT DUPLICATES OF THE INVOICES OR THE EQUIVALENT DOCUMENTATION TO EACH  
25 PLACE OF BUSINESS WITHIN TWENTY-FOUR HOURS AFTER A REQUEST BY THE DEPARTMENT.

26 D. THE RECORDS REQUIRED BY THIS SECTION SHALL BE RETAINED FOR A PERIOD  
27 OF FIVE YEARS AFTER THE DATE OF THE TRANSACTION.

28 E. ON REQUEST, THE DEPARTMENT AND THE UNITED STATES SECRETARY OF THE  
29 TREASURY OR SECRETARY'S DESIGNEE SHALL HAVE ACCESS TO RECORDS REQUIRED UNDER  
30 THIS SECTION AND REPORTS REQUIRED UNDER SECTION 42-3211. THE DEPARTMENT AT  
31 ITS SOLE DISCRETION MAY SHARE THE RECORDS AND REPORTS REQUIRED BY THIS  
32 CHAPTER WITH OTHER LAW ENFORCEMENT OFFICIALS OF THE FEDERAL GOVERNMENT OR  
33 OTHER STATES.

34 Sec. 25. Section 42-3221, Arizona Revised Statutes, is amended to  
35 read:

36 42-3221. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Adult" means an individual who is at least the legal minimum  
39 purchase age.

40 2. "Consumer" ~~means a person who is not a licensed distributor~~  
41 ~~pursuant to section 42-3201 selling or offering tobacco products for sale or~~  
42 ~~a retailer of tobacco products who is not a licensed distributor pursuant to~~  
43 ~~section 42-3201.~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 42-3001.  
44 Consumer does not include ~~a~~ AN INDIAN tribe, an enterprise owned by a tribe,  
45 a tribal member or an entity owned by a tribal member that purchases tobacco

1 products in connection with a delivery sale for resale on the tribe's or  
2 tribal member's reservation to the ultimate user of the tobacco products.

3 3. "Delivery sale" means any sale of tobacco products to a consumer in  
4 this state in which either:

5 (a) The consumer submits the order for the sale by means of telephonic  
6 or other voice transmission, mail, a delivery service or the internet or  
7 other on-line service.

8 (b) The tobacco products are delivered by use of mail or a delivery  
9 service.

10 4. "Delivery service" means any person that is engaged in the  
11 commercial delivery of letters, packages or other containers.

12 5. "Legal minimum purchase age" means the minimum age at which an  
13 individual may legally purchase tobacco products in this state.

14 6. "Mail" or "mailing" means the shipment of tobacco products through  
15 the United States postal service.

16 7. "Retailer" means any person who is not a licensed distributor that  
17 comes into possession of tobacco products subject to tax under this chapter  
18 for the purposes of selling the tobacco products to consumers.

19 8. "Shipping container" means a container in which tobacco products  
20 are shipped in connection with a delivery sale.

21 9. "Shipping document" means a bill of lading, airbill, United States  
22 postal service form or any other document used to evidence the undertaking by  
23 a delivery service to deliver letters, packages or other containers.

24 10. "Tobacco products" means all luxuries included in section 42-3052,  
25 paragraph 5, all luxuries included in section 42-3052, paragraph 6 and all  
26 luxuries included in section 42-3052, paragraph 7. Tobacco products does not  
27 include pipe tobacco or cigars.

28 Sec. 26. Section 42-3222, Arizona Revised Statutes, is amended to  
29 read:

30 42-3222. Delivery sales

31 A. A sale of tobacco products that constitutes a delivery sale  
32 pursuant to section 42-3221 is a delivery sale regardless of whether the  
33 person accepting the order for the delivery sale is located in or outside  
34 this state.

35 B. A sale of tobacco products is not a sale to a consumer for the  
36 purposes of this article if ~~the person is licensed as a distributor by the~~  
37 ~~department or if~~ the sale is to a ~~AN INDIAN~~ tribe, an enterprise owned by a  
38 tribe, a tribal member or an entity owned by a tribal member that purchases  
39 the tobacco products for resale on the tribe's or tribal member's reservation  
40 to the ultimate user of the tobacco products. If a person is a distributor  
41 ~~OR CIGARETTE DISTRIBUTOR~~, as defined in section 42-3001, the person shall  
42 obtain a ~~distributor's~~ license from the department ~~PURSUANT TO SECTION~~  
43 ~~42-3201~~ before submitting an order for a delivery sale.

44 C. A person shall not make a delivery sale of tobacco products to any  
45 individual who is not an adult.

1 D. Each person accepting an order for a delivery sale shall comply  
2 with each of the following:

- 3 1. The age verification requirements set forth in section 42-3223.
- 4 2. The disclosure requirements set forth in section 42-3224.
- 5 3. The shipping requirements set forth in section 42-3225.
- 6 4. The registration and reporting requirements set forth in section  
7 42-3226.

8 5. The tax collection requirements set forth in section 42-3227.

9 6. THE ESCROW PAYMENT REQUIREMENTS SET FORTH IN TITLE 44, CHAPTER 27.

10 ~~6-~~ 7. The licensing and tax stamp requirements set forth in ~~title 42,~~  
11 ~~chapter 3,~~ article 5 OF THIS CHAPTER that apply to sales of tobacco products  
12 that occur entirely in this state.

13 ~~7-~~ 8. All laws of this state generally applicable to sales of tobacco  
14 products that occur entirely in this state imposing excise taxes and  
15 transaction privilege taxes.

16 Sec. 27. Section 42-3226, Arizona Revised Statutes, is amended to  
17 read:

18 42-3226. Registration and reporting; applicability

19 A. Before making sales or shipping tobacco products in connection with  
20 sales, a person shall file with the department a statement stating the  
21 person's name, THE PERSON'S trade name and the address of the person's  
22 principal place of business and any other place of business.

23 B. Not later than the tenth day of each month, each person that has  
24 made a sale or mailed, shipped or otherwise delivered tobacco products in  
25 connection with any sale during the previous calendar month shall file with  
26 the department a memorandum or a copy of the invoice that provides for each  
27 sale:

28 1. The name and address of the individual who submitted the order for  
29 the sale.

30 2. The name and address of the individual who accepted delivery of the  
31 tobacco products.

32 3. The name and address of the person accepting the order for the sale  
33 of tobacco products.

34 4. The name and address of the delivery service and the name of the  
35 individual making the delivery.

36 5. The brand or brands of the tobacco products that were sold in the  
37 sale.

38 6. The quantity of each brand of tobacco products that was sold in the  
39 sale.

40 C. A person may comply with the requirements of subsections A and B of  
41 this section by complying with the requirements of 15 United States Code  
42 section 376.

43 D. This section does not apply to sales of tobacco products by a  
44 licensed distributor or to sales of tobacco products by a LICENSED retailer  
45 that were purchased from a licensed distributor.

1           Sec. 28. Section 42-3303, Arizona Revised Statutes, is amended to  
2 read:

3           42-3303. Tax on the consumer: precollection and remission by  
4                           distributor

5           A. The taxes levied pursuant to this article are conclusively presumed  
6 to be direct taxes on the consumer but shall be precollected and remitted to  
7 the department by the distributor for purposes of convenience and facility  
8 only. The taxes that the distributor precollects and pays to the department:

9           1. Are considered to be an advance payment.

10           2. Shall be added to the price of the cigarettes, cigars, smoking  
11 tobacco, plug tobacco, snuff and other forms of tobacco.

12           3. Shall be recovered from the consumer.

13           B. For the purpose of the precollection and remittance of the tax  
14 imposed by this article, the CIGARETTE distributor shall purchase and affix  
15 revenue stamps pursuant to article 5 of this chapter.

16           Sec. 29. Section 42-3304, Arizona Revised Statutes, is amended to  
17 read:

18           42-3304. Exemptions

19           A. The tax levied by this article does not apply to cigarettes,  
20 cigars, smoking tobacco, plug tobacco, snuff and other forms of tobacco:

21           1. For which the taxes imposed by article 6 of this chapter have been  
22 paid.

23           2. That are sold by an Indian tribe, or by a federally licensed Indian  
24 trader, on an Indian reservation to Indians who are enrolled members of the  
25 Indian tribe for whose benefit the Indian reservation was established.

26           3. THAT ARE EXEMPT FROM TAX UNDER 26 UNITED STATES CODE SECTION 5701  
27 AND THAT ARE DISTRIBUTED ACCORDING TO FEDERAL REGULATIONS.

28           B. The department shall adopt rules prescribing the procedures for  
29 claiming and verifying sales that are exempt under this section.

30           Sec. 30. Section 42-3305, Arizona Revised Statutes, is amended to  
31 read:

32           42-3305. Enforcement; penalty for failure to precollect and  
33                           remit tax; violation; classification

34           A. If the distributor fails to precollect or remit the tax imposed by  
35 this article when due, the distributor is subject to a civil penalty equal to  
36 FIVE TIMES the amount of taxes that should have been precollected or remitted  
37 but was not.

38           B. A distributor or any person who ships, transports, sells or  
39 distributes cigarettes, cigars, smoking tobacco, plug tobacco, snuff and  
40 other forms of tobacco on which the tax required by this article has not been  
41 paid is guilty of a class 3 misdemeanor.



1           Sec. 31. Requirements for enactment: two-thirds vote

2           Pursuant to article IX, section 22, Constitution of Arizona, this act  
3 is effective only on the affirmative vote of at least two-thirds of the  
4 members of each house of the legislature and is effective immediately on the  
5 signature of the governor or, if the governor vetoes this act, on the  
6 subsequent affirmative vote of at least three-fourths of the members of each  
7 house of the legislature.